

## **REMARKS**

Upon entry of the present amendment, claims 12, 26-37 are pending in the application. Claim 12 has been amended. Claims 14-21, 24 and 25 have been canceled/ Claims 26-37 are new. Claims 1-11, 13 and 22-23 have been canceled as being drawn to the non-elected subject matter. No new matter has been added. The claims were rejected for lack of enablement and indefiniteness.

### **I. Objections to the Specification**

The specification has been objected to by the Examiner for not providing the Accession number and date of deposit for the deposited material. Applicants are in the process of facilitating the deposit with the ATCC and will amend the specification accordingly once the deposit has been finalized.

### **II. Claim Objections**

Claims 18 and 19 are objected because these claims recite Accession Number for EST. Claim 18 and 19 have been canceled. New claim 33 recited the EST sequences by sequence identifiers. Applicants have amended the specification and submitted herewith a substitute sequence listing to include these sequence. Applicants also enclose a declaration executed by the practitioner representing the Applicants stating that the amendatory material consists of the same material incorporated by reference in the application. Applicants request that this objection be withdrawn.

### **III. Rejections under 35 U.S.C. § 112, first paragraph-enablement**

Claims 12, 18, 20, 21 and 24 were rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. Claims 18, 20, 21 and 24 have been canceled, thus this rejection is moot with respect to these claims. Claim 12 has been amended. Claims 26-37 are new. The rejection is traversed to the extent it applies to amended claim 12 and new claims 26-37.

Claim 12 has been amended to recite an isolated nucleic acid molecule consisting of SEQ ID No: 1, 2, 3 or 10. New independent claims 26 and 27 (and the claims that depend there from) are directed to isolated nucleic acid molecules comprising SEQ ID No: 1 or 10. New claim 32 (and the claims that depend there from) is directed to an isolated nucleic acid molecule which hybridizes under stringent condition to SEQ ID No: 1, 2, 3 or 10. Applicants have provided the complete the nucleic acid sequences of SEQ ID No: 1, 2, 3 or 10 in the specification as filed.

New claim independent claim 29 (and the claims that depend there from) is directed to an isolated nucleic acid molecule having 95% identity to SEQ ID NO: 10 or SEQ ID NO: 1 and encodes for a polypeptide that binds the IL-1 receptor. New independent claim 30 (and the claims that depend there from) is directed to a nucleic acid encoding the polypeptide of SEQ ID No:5. Similarly, new claim 31 (and the claims that depend there from) is directed to a nucleic acid that encodes a polypeptide that has 95% identity to SEQ ID No:5 and binds an IL-1 receptor. The claims recite unique limitations of nucleic acids encoding IL-1 receptor binding polypeptides, the ordinarily skilled artisan could with routine experimentation, determine which nucleotide sequences fell within the claims, and those which did not, by applying the specific and definite criteria expressly recited in the claims.

New claim 33 (and the claims that depend there from) is directed to nucleic acid molecules of less than 100 consecutive nucleotides of SEQ ID NO:1 and nucleic acid molecules that hybridize under stringent conditions to the nucleic acid, provided that the nucleic acid molecule does not consist of the sequence of SEQ ID NO: The claim recite the unique structural limitations of nucleic acids and provide clear guidance to one of skill in the art how to make an use the invention. Accordingly, Applicants assert that claim 12 as amended and new claims 26-37 are enabled. According, Applicants request that this rejection be withdrawn.

#### **IV. Rejections under 35 U.S.C. § 112, first paragraph- written description**

Claims 12, 18, 20, 21 and 24 were rejected under 35 U.S.C. § 112, first paragraph, for lack of written description. Claims 18, 20, 21 and 24 have been canceled, thus this rejection is moot with respect to these claims Claim 12 has been amended. Claims 26-37 are new. The rejection is traversed to the extent it applies to amended claim 12 and new claims 26-37.

Claim 12, as amended and new independent claims 26, 27, 29, and 33 (and the claims that depend there from) have several specific requirements for the nucleotides sequences that fall within its scope. The claimed sequences are limited to either a nucleic acid sequence consisting of (a) SEQ ID No:1, 2, 3 or 10; (b) a nucleic acid sequence that hybridizes under high stringency conditions to SEQ ID No:1, 2, 3 or 10; (c) a nucleic acid sequence that is 95% identical to SEQ ID No:1 or 10 and encodes a polypeptide that binds the IL-1 receptor and (d) a nucleic acid sequence that encodes a polypeptide that is 95% identical to SEQ ID No:5 and binds the IL-1 receptor

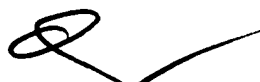
These claims, as amended, now recite a highly defined group of nucleic acid sequences that encode a limited group of IL-1 receptor binding proteins. Applicants have provided a clear description of the recited group of nucleic acid sequences that fall within the express and strict requirements of these claims. Applicants have clearly described and defined the hybridization assay under high stringency conditions and performing such hybridization would be routine to the ordinarily skilled artisan. Applicants have clearly described and defined calculation of sequence homology and sequence identity.

For these reasons, Applicants contend that one ordinarily skilled in the art would believe that applicants were in possession of this limited group of nucleotide sequences that encode a limited group of IL-1 receptor binding polypeptides, based on the clear description in the specification.

### CONCLUSION

Applicants submit that the application is in condition for allowance and such action is respectfully requested. Should any questions or issues arise concerning the application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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